

R E M A R K S

Claims **79 - 87 and 89 - 103** are pending

Claims **79, 84, 90, 91, and 103** are independent

Claim Objections

Claims **79 and 84** have been amended to insert a colon, as requested by the Examiner.

Claims **99 - 102** have been amended to replace semicolons with commas, as requested by the Examiner.

Claim **103** has been amended to replace a period with a semicolon, as requested by the Examiner.

None of the claim amendments were made for a reason related to patentability.

Section 101 Rejections

The standard employed in the rejection of the claims as nonstatutory is not a valid legal standard. In [particular, there is not, and there never has been, a "technology" requirement as the Examiner asserts. There also is no requirement to use technology "non-trivially".

Nevertheless, the independent claims have been amended to facilitate prosecution and expedite issuance. Applicants will pursue the subject of the claims before amendment in one or more continuing applications

Section 103 Rejections

Claims **79 - 87 and 89 - 102** are rejected as obvious in light of Goldenberg (U.S. Patent No. 6,036,344).

The Claim Limitations

All independent claims recite both transmitting a code and receiving this code. In other words, the same entity (the entity performing the method of a claim) would perform both the transmitting and the receiving steps.

Furthermore, the code indicates an amount of funds, or allows the amount of funds to be determined.

Claim Limitations Not Taught

The Examiner asserts that these features (present in all pending independent claims) are disclosed by Goldenberg. In particular, at page 7 of the Office Action the Examiner asserts that Goldenberg discloses the following:

"generating a code that indicates the received data (column 3, line 6, through column 4, line 2; column 5, lines 12-33)"

"transmitting the code (column 4, lines 7-31)"

"receiving the code after the step of transmitting the code (column 4, lines 16-24 and 50-58)"

However, the cited portions of Goldenberg make it abundantly clear that Goldenberg in fact discloses that the transmitted information is received by **a different entity**.

In other words, in Goldenberg the entity that transmits the information (the computer located at the bank where the check is being presented - Col. 4, lines 17 - 18 and 52 - 53) is different than the entity that receives the information (a computer at the processing center - Col. 4, lines 19 - 20 and 51 - 52).

Goldenberg does not suggest the claimed feature. In fact, there would be no use of such a feature in the system of Goldenberg. For example,

Goldenberg discloses no reason for the same entity to both transmit and receive a code.

Claim 85

In addition to the above arguments, the rejection of claim **85** is further deficient because there is no motivation to modify the reference in the manner the Examiner proposes.

The record contain no indication of the purported motivation for receiving DTMF signals as suggested by the Examiner. Absent substantial evidence of such a motivation, there can be no *prima facie* showing of obviousness.

Claim 100

In addition to the above arguments, the rejection of claim **100** is further deficient because there is no motivation to modify the reference in the manner the Examiner proposes.

The record contain no indication of the purported motivation for storing in a database at least one of the identifier of the account, the identifier of the check, and the amount of funds, as suggested by the Examiner. Absent substantial evidence of such a motivation, there can be no *prima facie* showing of obviousness.

Claim 102

In addition to the above arguments, the rejection of claim **102** is further deficient because there is no motivation to modify the reference in the manner the Examiner proposes.

The record contain no indication of the purported motivation for providing the amount of funds made unavailable if a code received can be used to retrieve data representing at least one of the identifier of the account, the identifier of the check, and the amount of funds from a database, as suggested by the Examiner. Absent substantial evidence of such a motivation, there can be no *prima facie* showing of obviousness.

Claim 103

Applicants gratefully acknowledge the recognition that the prior art of record does not support a *prima facie* case of unpatentability of independent claim **103**.

Conclusion

It is submitted that all of the claims are now in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment, the present application, or any of the references, the Examiner is cordially requested to contact Dean Alderucci at telephone number (203) 461-7337.

Respectfully submitted,



Dean Alderucci
Attorney for Applicants
Registration No. 40,484
(203) 461-7337/phone
(203) 461-7300/fax

October 12, 2004
Date